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ACT OF INCORPORATION

OF THE

VILLAGE OF MIDDLEBURY,

SCHOOL LAW

AND

BY-LAWS OF THE VILLAGE.

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MIDDLEBURY:
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1877.

ACT OF INCORPORATION.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. The inhabitants of that part of the town of Middlebury embraced within the following limits, commencing on the east bank of Otter Creek at the lower falls, near the foundry, [at a bolt in the rock] thence running easterly to the northeast corner of said village as now established, thence southerly to a point where the turnpike and creek roads intersect, thence westerly to a ledge in the road a few rods south of the dwelling house of George Porter, [to a bolt in the ledge] thence north to Weybridge line, thence east to center of Otter Creek, thence north to place of beginning, —are hereby incorporated and made a body corporate and politic under the name of the Village of Middlebury; and by that name may sue and be sued, prosecute and defend in any court, may have a common seal, and alter the same at pleasure, may take, hold, purchase and convey real and personal estate, and generally shall have, exercise and enjoy all such rights, immunities, powers and privileges as are incident to public corporations.

SECTION 2. The inhabitants of said village, qualified by law to vote in town meeting, shall meet at the court house or other suitable place on the first Wednesday in January, annually, at which meeting shall be chosen a moderator, clerk, seven trustees, treasurer, collector, auditor and water commissioner, and any other business specified in the warning of such meeting; which warning shall be signed by the clerk, naming such other business as the

trustees may direct, and shall be posted up in three or more public places in said village, at least ten days before the time of holding such meeting.

SECTION 3. The trustees are hereby authorized to call special meetings of said corporation as the interest of the same may require, causing the same to be warned by the clerk in the manner heretofore specified for warning annual meetings; and any meeting may be adjourned from time to time as said corporation may judge proper, and any business may be transacted at such adjourned meetings, although not specified in the original warning, provided notice of such business shall be given in the usual manner of warning meetings, by giving ten days notice.

SECTION 4. All the officers, before they enter upon the duties of their respective offices, shall be sworn to the faithful discharge of the duties thereof, and the treasurer and collector shall, before assuming their duties, give bonds to said corporation in such sum and with such sureties as said trustees shall direct, conditioned for the faithful performance of the duties of their offices respectively.

SECTION 5. It shall be the duty of the clerk of said village to keep fair records of all the proceedings of said corporation, and to give copies of the same when required, and he shall receive such fees as town clerks are entitled by law to receive for like services; also to warn all meetings of said corporation, agreeably to the directions of the trustees. He shall also perform all other duties required by this act, and such as are usually performed by village clerks.

SECTION 6. It shall be the duty of the trustees to make out and deliver to the collector an assessment or rate-bill of all taxes which shall be laid by said corporation, to see that all the by-laws of said corporation are duly executed, and to direct prosecutions for all breaches of the same, and generally to take care of all the prudential concerns of, and perform all duties which shall be legally enjoined on them by said corporation. They shall also appoint from time to time such number of fire wardens as the corporation may by their by-laws direct, and the same remove at pleasure. They are authorized to organize one or more fire companies, with such powers and regulations as the said corporation by their by-laws may provide; but no fire company shall exercise any powers until the same shall be recorded by the clerk of said village. All pow-

ers vested by this act in said trustees may be exercised by a majority of them, and in case of the incapacity of the clerk, the trustees may warn meetings of said corporation by signing the warning and posting it in the usual manner.

SECTION 7. The trustees of said village shall have exclusive power to control, lay out, establish, alter and discontinue streets, highways, lanes and alleys, with the grounds and walks of the same, within the limits of said village, and a survey of the same shall be recorded in the village records, and they shall also lay out, establish, alter and discontinue such streets, highways and alleys, when so directed by said village at a meeting legally held for that purpose, or by vote of said trustees at a regular meeting of said board, when requested by five or more freehold proprietors of premises adjoining the proposed improvement; provided, that nothing in this section shall be construed to supersede the jurisdiction of the supreme or county court in the premises.

SECTION 8. The trustees shall have power to appoint five police officers, and on special occasions may temporarily increase the number, whose names shall be recorded by the clerk of the village, and they shall hold their office until duly discharged, or others appointed. Said police shall have the same power to serve criminal processes within said village that a constable now has, and shall have power to arrest all persons who may be disturbing public meetings, or any disorderly or drunken person, and confine the same in the jail in said village not exceeding twenty-four hours, and the person so arrested shall be dealt with as if arrested on a complaint and warrant; and said police shall perform such other duties and have such other powers as said village may vote.

SECTION 9. Said village shall have power to make, establish, alter, amend or repeal ordinances, regulations and by-laws for the following purposes, and to inflict penalties for the breach thereof:

1st. To establish and regulate a market.

2d. To suppress and restrain disorderly and gaming houses, and all descriptions of gaming.

3d. To regulate the exhibition of shows of every kind not prohibited by law.

4th. To abate and remove nuisances.

5th. To regulate alterations and repairs of stove-pipes, furnaces, fire-places and other things for which damage by fire may be apprehended.

6th. To prevent immoderate riding or driving in the streets, and cruelty to animals.

7th. To regulate the erection of buildings, and prevent encumbering the streets, sidewalks and alleys with fire-wood, lumber, carriages, boxes or other things, and provide for the care and improvement of public grounds.

8th. To restrain the running at large of cattle, horses, swine, sheep, dogs and geese.

9th. To provide a supply of water for the protection of the village against fire, and for other purposes, and to regulate the use of the same.

10th. To compel all persons to keep the sidewalks adjacent to their premises clean.

11th. To license inn-keepers, saloons or eating houses, and auctioneers.

12th. To regulate or restrain the use of fireworks of all kinds, in the streets or commons.

13th. To prescribe the powers and duties of watchmen of said village, and to provide for lighting the streets.

14th. To regulate the grade of streets, the grade and width of sidewalks, and the construction thereof.

15th. To prohibit and punish willful injuries to trees planted for shade, ornament, convenience or use, and to prevent and punish trespass or willful injuries to or upon public buildings, squares, commons, cemeteries or other property.

16th. Said corporation may make and establish, amend or repeal any other by-laws, rules and ordinances which it may deem necessary for the well being of said village, and not repugnant to the constitution or laws of this state. All which by-laws and ordinance shall be recorded in the office of the clerk of said village, and the clerk's certificate that such by-laws and ordinances were adopted at a legal meeting of said village, shall be *prima facie* evidence of such fact in any court in this state, and such certificate shall also be received in evidence in all courts in this state; and such corporation may impose a fine not exceeding fifty dollars for the breach of any by-law, rule, or ordinance, which fines, together with all other fines imposed by this act, may be recovered before any justice of the peace within and for the county of Addison, in an action on the case, declaring generally for the breach of such by-law, rule, or ordinance, or section of this act.

SECTION 10. No money shall be expended by any person for or in behalf of said village except by the direction of the trustees, and no money shall be paid out of the village treasury except upon orders signed by a majority of the trustees, who shall keep a full and true record and account of all orders drawn and expenditures made by them, and shall make report thereof at each annual meeting ; and said village may appoint one or more auditors to audit and settle the accounts of any or all its officers, or may settle the same in such other manner as it may direct.

SECTION 11. The said village may at any annual meeting, or special meeting called for that purpose, lay a tax on the polls of the inhabitants of said village, and the ratable estate within the same, for any of the purposes heretofore mentioned, and the trustees shall make out a rate-bill accordingly, and deliver the same to the collector, who shall have the same power to collect such tax as the collector of town taxes, and may in like manner sell property to satisfy the same, and for want thereof commit any person to jail against whom he may have such tax.

SECTION 12. All the territory embraced within the limits of said village is hereby constituted a highway district of the town of Middlebury, and all the highway taxes assessed on the polls and ratable estate therein shall be paid in money, and the trustees of the village shall make out a tax-bill therefor and deliver the same, with a warrant for its collection, to the collector of said village, who shall collect the same as other taxes are collected, and pay the same over to the treasurer of said village, which money shall be drawn from the treasury by the trustees, and shall be expended by them in building, maintaining and repairing the streets, highways, walks, alleys and lanes of said village ; and no surveyor of highways for said village shall be appointed by said town, and said village shall not be liable to build or repair any bridge across Otter Creek.

SECTION 13. Whenever there shall be a vacancy in any of the offices of said village, from any cause whatever, the village may fill such vacancy at any legal meeting. The trustees may make temporary appointments for such vacancies, and the persons thus appointed shall hold their office until the village shall elect others in their place.

SECTION 14. The corporation of said village shall have power to organize and establish a water department in order to supply said

village with water for the fire department, domestic and other purposes, and may purchase and hold all necessary real and personal estate for that purpose, and may issue their corporation bonds to secure any present or future indebtedness for establishing and operating their water works.

SECTION 15. To aid in supporting the water department of said corporation, and to insure the annual interest on the water bonds of said corporation, and to provide for their final payment, the said corporation shall establish rates of annual rents, to be charged and paid at such times and in such manner as may be determined by said corporation for the supply of water to the inhabitants of said village, and they may from time to time modify, amend, increase or diminish such rents, and extend them to any description of property or use as the said corporation may deem proper.

SECTION 16. Such water rents as shall be established upon lots, buildings, factories, furnaces, steam engines, stores, shops, stables and other property, shall be collected from the owner of the property so supplied, unless otherwise provided in the lease of the water; and such rents shall be in the nature of a tax, and be a lien and charge upon such buildings, lots and other property so supplied, and may be collected in the same manner as any corporation tax.

SECTION 17. The water rents may be ordered to be paid in advance, and all necessary provisions and orders may be made by the corporation relating to the supply or stoppage of water as they may deem necessary to insure such advance payments.

SECTION 18. Said corporation, at its next or some future annual meeting, shall elect by ballot a board consisting of three water commissioners, who shall hold their office as follows: the first commissioner shall hold his office three years, the second two years, the third one year, and at every subsequent annual meeting there shall be elected one water commissioner to fill the vacancy occasioned by the then expiring term, who shall hold his office three years from his election, and until his successor shall be chosen as above provided.

SECTION 19. The water commissioners, under the direction of the corporation, shall have the supervision of the water department, shall make and establish all necessary rules and regulations for the government and operations of the water works, and may draw orders upon the treasury for the necessary expenses of the same, may appoint a superintendent and remove the same at pleasure, may

establish rates for the use of the water and provide for the collection of the same, and generally take charge of the water department, subject to the control of the corporation.

SECTION 20. Every bond issued by said corporation in pursuance of this act shall be signed by the chairman of the board of trustees, and the treasurer, and shall have the certificate of the clerk of said corporation that said bond is one of the series authorized by the corporation, and the records of the corporation shall be so kept as to show the issue of the bonds, the amounts and dates of the same, and the time when due, and the time of payment.

SECTION 21. This act shall take effect when the Middlebury village corporation, at a legally warned meeting, shall accept the same, and when so accepted, all former acts relating to said corporation are repealed.

Approved, November 24, 1874.

MIDDLEBURY GRADED SCHOOL.

It is hereby enacted by the General Assembly of the State of Vermont :

SECTION 1. School district number four, in Middlebury, in the county of Addison, a corporation duly established under the laws of this state, is hereby empowered and required to educate the scholars in said district in a graded school or schools; and for that purpose may sell and convey any real estate belonging to said district, purchase, build, lease, and hold as many school houses, or school rooms and establish and keep as many schools, and cause to be taught therein as extended a course of study as said district shall direct.

SECTION 2. Said district may make all such necessary rules and regulations in regard to the attendance of scholars, and the course of instruction in said school or schools, as shall not be inconsistent with the laws of this state.

SECTION 3. The prudential committee of said district may admit scholars coming from without said district upon such terms as they may prescribe.

SECTION 4. The officers of said district shall be a moderator, a prudential committee of five, a clerk, a treasurer and collector, who shall be chosen annually and hold their offices until others are chosen.

SECTION 5. Said district may elect a prudential committee, treasurer, and collector, at a special meeting duly warned and holden, who shall hold their offices until the last Tuesday in March, 1867 ; and thereafter, all the officers of said district shall be chosen agreeably to the laws of this state.

SECTION 6. In the distribution of the public money by said Middlebury, said district shall receive the share of four districts as to that portion distributed among the several districts, in addition to the distribution share upon scholars.

SECTION 7. Said district, in addition to the powers conferred by this act, shall have all the powers and rights that are or may be conferred upon common school districts, and shall be subject to all the provisions of the law concerning school districts and district schools, not inconsistent with this act.

SECTION 8. Said district is authorized and empowered by vote of a majority of the legal voters thereof, in a meeting legally warned and held for that purpose, to impower the prudential committee thereof to borrow money, not exceeding ten thousand dollars in amount, at a rate of interest not exceeding seven and three-tenths per cent., nor for a longer time than ten years, as said district may determine ; and the prudential committee shall have power, in pursuance of said vote, to issue the notes or bonds of said district, duly countersigned and registered by the treasurer thereof, and payable at such time and at such rates of interest, not exceeding the time, amount and rate above specified, as said district may by vote determine.

SECTION 9. This act shall be under the control of any future legislature, to alter, repeal or amend, as the public good may require.

Acts of 1866, 1869 and 1876.

BY-LAWS OF THE VILLAGE.

It is hereby ordained by the Village of Middlebury as follows :

SECTION 1. At every annual meeting the village shall elect by ballot the following officers, to wit : a Moderator, Clerk, seven Trustees, Treasurer, Collector, Auditor, and Water Commissioner (when needed), provided that any of the above officers may be chosen by *viva voce* vote if not objected by three or more persons.

SECTION 2. It shall be the duty of the Moderator to preserve order, and he may speak to points of order in preference to others, and shall decide all questions of order, subject to an appeal. No person shall speak in the meeting without first obtaining leave of the moderator, nor when any other person is speaking, and all persons shall be silent and keep their seats by order of the moderator, on penalty of forfeiting one dollar to the corporation for the breach of every such order.

SECTION 3. It shall be the duty of the Clerk, in addition to those of the act of incorporation, to record the warnings of all meetings, and annually before noon on Monday preceding the annual meeting in January, deliver the auditor a written report, properly classified, of all orders drawn by the trustees during the preceding year.

SECTION 4. It shall be the duty of the Treasurer to keep an account of all his receipts and expenditures, and he shall annually before noon on Monday next preceding the annual meeting in January, deliver to the auditor a written report of his receipts and expenditures, the condition of the treasury, and the amount of taxes unpaid, and every treasurer going out of office shall deliver to his successor all monies, books of account, and all other documents and papers belonging or relating to said office, under penalty of forfeiting for every week during such refusal or neglect, twenty-five dollars to said corporation.

SECTION 5. It shall be the duty of the Collector to collect all taxes assessed by the village and placed in his hands for collection, within such time as shall be specified by the trustees, and pay the same into the hands of the treasurer.

SECTION 6. It shall be the duty of the Auditor to audit all accounts, and present at every annual meeting a written, classified and detailed report of the financial affairs of the village, the amount of its indebtedness, amount of taxes unpaid, and the balance for or against the corporation.

SECTION 7. It shall be the duties of the trustees, in addition to those specified in the act of incorporation, to see that the provisions of such acts are carried out, and to have a general supervision of the prudential affairs and government of the village. They shall have the same power to abate village taxes that the selectmen and civil authority have to abate town taxes. They shall annually within three days after their election appoint the following village officers, to wit: a Village Attorney, Superintendent of Parks, Supt. of Street Lamps, Supt. of Clock, Supt. of Pump, Supt. of Stock running at large, Supt. of Sidewalks to remove snow therefrom, eight Fire Wardens, three or more Police Officers, and may appoint one or more Highway Surveyors, and all of said officers shall hold their respective offices one year, and until others are appointed. They shall hold a meeting annually at least five days previous to the annual meeting of the village for the purpose of abating taxes, settling accounts and drawing orders. The chairman of the trustees shall annually before Monday noon preceding the annual meeting, deliver to the auditor a written report of all claims against the village which may have come to his knowledge, and for which orders have not been drawn, all property belonging to the village, with an estimate of the value thereof, the condition of the fire engine, hose, and number of feet thereof, and any other information relative to the interests of the village which report shall be read at the annual meeting, and kept on file by the clerk. The act or decision of a majority of the trustees shall be deemed as the act of the whole. They shall call special meetings of the village when requested in writing by twelve freeholders of said village.

SECTION 8. It shall be the duty of the Attorney of said village to commence and prosecute all suits and actions for, and defend all suits against said village under direction of the trustees, and for compensation he shall be entitled to the legal taxable fees only. He shall pay over to the treasurer all monies which he may from time to time collect for said village within ten days after receiving the same.

SECTION 9. The accounts of Highway Surveyors, and all other village officers, shall be audited and settled at the close of each year.

SECTION 10. **Taxes.**—It shall be the duty of the Clerk of the village in the month of May annually to transcribe from the grand list of the town of Middlebury, the list of all persons liable to be taxed in said village, and keep the same on file in his office.

SECTION 11. It shall be the duty of the Trustees to make out, certify and deliver to the collector, a rate bill or assessment of all taxes which shall be laid by said village, together with a warrant to collect the same, and take his receipt therefor and lodge it with the treasurer of said village, and said collector shall have the same powers in the collection of taxes as are by law given to the collector of town taxes.

SECTION 12. No money shall be drawn from the treasury except by order of the trustees, specifying for what purpose, and a record of all orders drawn shall be kept by the clerk.

SECTION 13. **Nuisances.**—No person shall dig up the ground or pavement in any alley, street, sidewalk or common, or erect any staging thereon for building, which shall obstruct the travelling, or place any stone, earth, brick, lumber, logs, or other building material thereon, without first obtaining a written license from the trustees, and when the travelling shall become dangerous by reason of such obstruction, the person so licensed shall put a fence or railing around the same, and also keep a lighted lantern attached to the same during the night.

No person shall place in any street, lane or alley or public place, any ashes, garbage, filth, offal, or other kinds of rubbish, except in such place and manner as the trustees may prescribe.

No person shall permit any geese, sheep, goat, swine, horse, cow, or other cattle to go at large in any street or public place in the village.

No person shall drive any horse, cart, wagon or other carriage on any sidewalk, nor obstruct or encumber any such sidewalk so as to interfere with the convenient use of the same by passengers.

No person shall move any house, shop, or other building through any street or over any bridge in the village without first obtaining permission from the trustees.

The trustees may prohibit the burning of any squibs, fire-crackers or other fireworks or bonfires in any or all of the public streets or grounds, under a penalty of ten dollars for every offence.

No person shall injure, deface, or destroy any guide post, guide board, signboard, lamp post or lamp, or cut down, remove, mutilate or otherwise injure or destroy any fruit, shade or ornamental tree growing on any public grounds in the village, or fasten any horse or other animal to any such tree so as to endanger or deface the same.

No person shall post any show bills, advertisements, notices, or paint any designs on any building or fence without permission of the proprietors.

No person shall coast or slide on any sled or other thing in any of the streets or sidewalks except such as shall be designated by the trustees.

No person shall catch a ride upon any sleigh or wagon while the same is passing in the streets, without permission of the driver.

No person shall go into Otter Creek to bathe, undressed, below the south-east corner of James McDonald's lot, and above the south-east corner of Orrin Abby's lot, between sunrise and one hour past sunset.

No person shall behave in a rude or disorderly manner, or use any indecent, profane, or insulting language in any street or public place, or near any dwelling house or other building, or be, or remain upon any sidewalk, doorstep, portico or stairway, to the annoyance or disturbance of any other person.

No person shall make any indecent figures, nor write any indecent or obscene words upon any fence, building or other public place, nor by any noise or other means designedly frighten any horse, or throw any stones or other missiles in any street or public place in the village.

Every common prostitute, or female person who shall ply the vocation of a prostitute in this village, and every male person who shall therein associate and consort with such female for the purpose of personal prostitution, shall be punished by imprisonment in the common jail of Addison County for not more than sixty days, or be fined not exceeding fifty dollars, or both of said punishments at the discretion of the court, and it is hereby made the duty of the police officers of the village to arrest all persons who may violate this by-law, and the same may be done without warrant.

It shall be the duty of each land owner in this village, when requested by the trustees, to remove all obstructions from the sidewalks adjoining such land or property, and if they shall neglect to remove the same within three days after such notice, the trustees may order the removal of such obstructions at the expense of said land owners, and such suit may be collected by suit in favor of the village.

Any person who shall offend against any of the provisions of this ordinance, or any of the by-laws now in force, shall be liable to a fine for each and every offence, of not less than one, nor more than twenty dollars.

It shall be the duty of the trustees to prosecute all violations of the acts of incorporation and by-laws in force, unless settled by a majority of them, and they shall have power to settle any such violation for a less sum than the penalty, whenever in their opinion the circumstances of the case will permit it, and all suits for such violations shall be commenced within thirty days and not after.

SECTION 14. Fire Department.—It shall be the duty of the Fire Wardens to examine and inspect from time to time, at or previous to the commencement of winter, all the houses, stores, shops and other buildings in which fire is kept, and which are liable to communicate fire to other buildings, and if any two of said fire wardens shall judge any such building to be liable to take fire by defect of any chimney, stove, stovepipe or other means, they shall immediately give notice thereof to the owner or occupant of said building, and if such person shall neglect for the space of ten days to repair the same to the acceptance of said fire wardens, he shall forfeit and pay a fine of ten dollars to the corporation and if such person shall further neglect or refuse as aforesaid, he shall forfeit and pay one dollar for every day of such further neglect or refusal.

It shall be the duty of the trustees to see that each fire warden is provided with a suitable staff, or other distinguishing badge of his office in time of fire, and no fire warden shall in time of fire have, or exercise any of the powers vested in him by this by-law, unless he have with him such distinguishing badge.

In case a fire shall break out in any building in the village, any of the fire wardens having with him his badge, shall have power to demand and require the assistance of any and all persons who may be present at the fire to extinguish or prevent the spreading

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of such fire and to remove goods and effects from buildings or places endangered by the same, and the majority of said fire wardens present are hereby authorized to cause to be pulled down or removed, such houses or buildings as they may think necessary to prevent the spreading of such fire, and the said fire wardens shall have power to require and demand assistance from any and all persons who may be present at the fire, to pull down or remove any building which a majority of the fire wardens present shall have decided to be necessary to prevent the spreading of such fire, and if any person shall refuse to obey the orders of any such fire wardens in time of fire, in any manner authorized by this law, such person shall forfeit and pay a fine of five dollars to the corporation.

It shall be the duty of the trustees to procure such quantities of engine hose, ladders and fire hooks as they may judge necessary, and provide suitable places for keeping the same, together with any and all fire engines owned by said corporation, and see that all necessary repairs are made on the same. They are hereby authorized to increase the members of the present engine company, and to organize one or more additional fire companies, when considered necessary for the interests of the village, and all members of engine or fire companies shall be residents of the village.

The commanding officer of any engine company in time of fire shall have the entire control of his company and engine, unless in case a majority of the fire wardens present shall assume the direction in which case the commanding officer shall direct the labor of the company in accordance with the direction of the fire wardens.

Every engine company shall meet at least six times a year for exercise, and the present company may receive from the village treasury annually, as a compensation, three dollars for each of its members, and five dollars extra to its secretary.

Each engine company shall have power to adopt such by-laws and regulations as may be necessary, which are not to conflict with the by-laws of the village, and may alter or amend the same at any regular meeting by a vote of two-thirds of the members present, and each member shall be subject to such assessments and fines as the company shall direct.

The Clerk of each company shall furnish a list of its members to the clerk of the village the first week in January annually.

All former by-laws of the corporation are hereby repealed.

Adopted, April 2, 1877.